



0000096163

1 BEFORE THE ARIZONA POWER PLANT  
2 AND TRANSMISSION LINE SITING COMMITTEE  
3

4 IN THE MATTER OF THE ) DOCKET NO.:  
5 APPLICATION OF UNS ELECTRIC, ) L-00000F-09-0190-00144  
6 INC., FOR A CERTIFICATE OF )  
7 ENVIRONMENTAL COMPATIBILITY ) Case No. 144  
8 FOR THE VAIL TO VALENCIA )  
9 115kV TO 138kV TRANSMISSION )  
10 LINE UPGRADE PROJECT, )  
11 ORIGINATING AT THE EXISTING )  
12 VAIL SUBSTATION IN SEC. 4, )  
13 T.16S., R.15E., PIMA COUNTY, )  
14 TO THE EXISTING VALENCIA )  
15 SUBSTATION IN SEC. 5, T.24S., )  
16 R.14E., IN THE CITY OF )  
17 NOGALES, SANTA CRUZ COUNTY, )  
18 ARIZONA. )  
19 )  
20 )  
21 )  
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24 )  
25 )

PREFILING MEETING

13 At: Phoenix, Arizona

14 Date: April 8, 2009

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By: MICHELE E. BALMER  
Certified Reporter  
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24 Prepared for:

25 SITING COMMITTEE

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1	INDEX TO EXHIBITS		
2	NO.	DESCRIPTION	IDENTIFIED/ADMITTED
3	1	Letter dated April 3, 2009 from Roshka, DeWulf & Patten	13
4	2	Draft Procedural Order	14
5	3	Draft Conditions	14
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
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1 BE IT REMEMBERED that the above-entitled matter  
2 came on regularly to be heard before the Arizona Power  
3 Plant and Transmission Line Siting Committee, 1275 West  
4 Washington Street, Phoenix, Arizona, commencing at  
5 2:00 p.m. on the 8th day of April, 2009.

6

7 BEFORE: JOHN FOREMAN, Committee Chairman

8

9 APPEARANCES:

10 For UNS Electric:

11 ROSHKA, DeWULF & PATTEN, PLC  
12 By: Mr. J. Matthew Derstine  
13 Mr. Michael W. Patten  
14 Mr. Jason D. Gellman  
15 400 East Van Buren Street, Suite 800  
16 Phoenix, Arizona 85004

17

- and -

18

19 UNISOURCE ENERGY SERVICES  
20 By: Mr. Marc Jerden, Senior Legal Counsel  
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22 Tucson, Arizona 85702

23

Intervenor Marshall Magruder - Pro Se

24

25 Mr. Marshall Magruder  
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28

29

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MICHELE E. BALMER  
Certified Reporter  
Certificate No. 50489

1 CHMN. FOREMAN: Let's go on the record. I'm John  
2 Foreman. I'm the Chairman of the Arizona Power Plant and  
3 Transmission Line Siting Committee.

4 And I had a request to meet before the filing of  
5 an application in a project that's been described as an  
6 application by UNS Electric for a Certificate of  
7 Environmental Compatibility for a Vail to Valencia 115kV  
8 to 138kV transmission line upgrade.

9 What I would like to do first is go around the  
10 table and have those of you who are here identify  
11 yourselves for the record.

12 MR. DERSTINE: Matthew Derstine along with Jason  
13 Gellman and Mike Patten, Roshka, DeWulf & Patten,  
14 appearing for the Applicant.

15 MR. MILLER: George Miller with Transcon  
16 Environmental, the environmental consultant for the  
17 project.

18 MR. JERDEN: And Marc Jerden, Senior Counsel  
19 in-house with UniSource Energy.

20 MR. BECK: Ed Beck, Director of Line Siting  
21 Services for both UNS Electric and Tucson Electric Power.

22 MR. MAGRUDER: Marshall Magruder, ratepayer,  
23 Tubac, Arizona.

24 CHMN. FOREMAN: All right. Now, the Staff of the  
25 Arizona Corporation Commission is not here, and we had

1 asked that the Applicant contact any person as defined by  
2 the statute who might be -- who had indicated an interest  
3 in intervening as a party in this proceeding.

4 So Counsel, why don't you tell me what you have  
5 done and what the results have been.

6 MR. DERSTINE: Pursuant to your request, we did  
7 send out a letter to persons who we thought were likely to  
8 intervene in the case. I've given you a copy of our  
9 letter, dated April 3, 2009, from Mr. Gellman to Mayor  
10 Garcia on behalf of the City of Nogales; Mike Heim, City  
11 Manager, City of Tucson; Jim Stahle, Town Manager, Town of  
12 Sahuarita; C.H. Huckelberry, the County Administrator for  
13 Pima County; Melinda Meek of the Santa Cruz Board of  
14 Supervisors; Mr. Magruder, who is here today; and Michelle  
15 Muench of Arizona State Land.

16 In addition to the parties who received the  
17 April 3 letter, we did have direct communication with  
18 Commission Staff. Mr. Gellman spoke -- I want to say had  
19 a phone conversation for, I want to say, close to an hour  
20 with Charles Hains, counsel for Commission Staff,  
21 outlining this project, alerting him that we would be  
22 asking for a prefiling meeting in anticipation of filing  
23 our application.

24 In addition to that, I believe Mr. Beck met with  
25 Steve Olea, Prem Bahl --

1 MR. BECK: Ray Williamson, Del Smith, and  
2 Terry -- I can't think of her last name.

3 MR. DERSTINE: And that was last week?

4 MR. BECK: Yes, last week.

5 MR. DERSTINE: Also to explain this project, give  
6 them an outline of our application and what we would be  
7 seeking.

8 And it's my understanding -- if you want  
9 Mr. Gellman to speak to it -- he received a voice message  
10 this morning indicating that Staff was not certain that  
11 they were going to intervene. I believe that's correct.

12 MR. GELLMAN: Yes.

13 MR. DERSTINE: And that they would not be  
14 appearing at this meeting today.

15 CHMN. FOREMAN: Okay.

16 MR. DERSTINE: And I think that's consistent with  
17 the information that Attorney Hains had given Mr. Gellman  
18 when they spoke about the project. He indicated that, as  
19 I understand it, Staff was not going to intervene as a  
20 matter of course in all line siting matters. And  
21 apparently, as to this one, I guess it's up in the air  
22 whether they intend to intervene.

23 MR. GELLMAN: Yeah. I can explain more the phone  
24 message that was left. The Assistant Chief Counsel, Janet  
25 Wagner, left me a phone message this morning indicating

1 that it was unlikely that Staff was going to intervene in  
2 this case and they were not going to participate in the  
3 prefiling conference today. I attempted to call her back.  
4 We have been basically playing phone tag. I have not had  
5 a chance to speak with her live about their decision.

6 CHMN. FOREMAN: Okay. Well, there's certainly no  
7 legal obligation for them to intervene. It's always  
8 helpful if they do. And my desire for formalizing this  
9 pre-application conference is to make sure that we can  
10 move through what the law requires us to move through as  
11 expeditiously as possible, and everybody understands what  
12 my expectations are and what the committee's expectations  
13 will be from the very beginning.

14 Mr. Magruder, let me talk to you a little bit.  
15 Tell me what your interest is in this matter, and do you  
16 intend to file a request to intervene?

17 MR. MAGRUDER: In January 2001, I was appointed  
18 to the joint City of Nogales-Santa Cruz County Energy  
19 Commission, and since then I have been involved in almost  
20 everything involved with that subject and the utility  
21 companies as an individual intervenor.

22 CHMN. FOREMAN: Okay.

23 MR. MAGRUDER: I have not made my final decision  
24 if I'm going to intervene in this case, but I probably  
25 will.



1 CHMN. FOREMAN: All right.

2 MR. MAGRUDER: I haven't seen the application.

3 CHMN. FOREMAN: Sure. Let me encourage you to  
4 look at the draft prehearing procedural order that I have  
5 given you a copy of this morning. If you do enter as a  
6 party, I'm going to expect you to do a number of things:  
7 Provide disclosure about who your witnesses are going to  
8 be, provide disclosure about what it is they'll say,  
9 provide disclosure about any exhibits that you're going to  
10 use.

11 There is an opportunity under the statutes for  
12 you to make a more limited appearance that would give you  
13 the opportunity to say something, make whatever oral  
14 presentation that you wanted to make, but wouldn't give  
15 you the opportunity to call your own witnesses or  
16 cross-examine other witnesses.

17 You say that you have done this before. Do you  
18 have any legal training?

19 MR. MAGRUDER: I'm a retired naval officer and I  
20 have conducted a lot of summary court marshals, special  
21 court marshals, and participated as a member of general  
22 court marshals. And in the summary, you're the judge, the  
23 jury, the prosecutor, and the defense attorney all at one  
24 time. So I have had to play and understand the different  
25 roles.

1 I have intervened in probably eight or so  
2 different cases, mostly involving TEP and UniSource, but  
3 right now I'm in a water rate case with my water company.  
4 My brief is due on the 1st of May.

5 CHMN. FOREMAN: So you have other fish to fry.

6 MR. MAGRUDER: Yes.

7 CHMN. FOREMAN: I was trying to use a nautical  
8 term, a nautical metaphor.

9 MR. MAGRUDER: Yes.

10 CHMN. FOREMAN: All right. Well, the committee,  
11 I think, makes the ultimate decision about intervening.  
12 The problem is the committee isn't going to meet until the  
13 time of the hearing. And so what I'm going to do is try  
14 to get you to make your decision to file your request as  
15 soon as possible, or notify me that you're not going to be  
16 requesting.

17 What I want to do is make this entire process as  
18 open and as transparent as possible and give you every  
19 opportunity to put into the record whatever you think is  
20 important that the committee have before it when it makes  
21 its decision, and what should be in the record as far as  
22 what the Commission should see if the matter is reviewed  
23 later on by the Commission.

24 Now, there are multiple ways that that can be  
25 done, and I'm willing to be flexible to the extent that I

1 have flexibility given to me by the statutes and the rules  
2 of procedure that other people have passed and imposed on  
3 this process, but I do want the process to proceed  
4 expeditiously. And there are a lot of moving parts, a lot  
5 of people that have to come together at one time in one  
6 spot, and it's not fair to them to show up to the hearing  
7 and then have to delay because of something that should  
8 have been done beforehand.

9 MR. MAGRUDER: I have no problems about  
10 submitting prefiled testimony, which, if given the date,  
11 I'll generally try to meet it because you're supposed to  
12 meet it. I have no problems about asking questions, and I  
13 write them out in advance, so I'm generally prepared.

14 Through my training in the last nine years doing  
15 this stuff, I have gotten, I think, a little bit better,  
16 and I'm sure the company would agree. I'm more  
17 coordinated now than I was five or eight years ago, and  
18 it's all been self-taught. But I don't try to hold up  
19 things.

20 I would like to have a period of discovery,  
21 though, so that I could ask the company some questions  
22 through data requests, and with a reasonable amount of  
23 time for them to respond. Previously, I have asked them  
24 very complicated data requests. I do not have any real  
25 reason to ask complicated data requests in this case.

1 CHMN. FOREMAN: Okay.

2 MR. MAGRUDER: But I do want to know some  
3 reliability numbers, some cost numbers, and those types of  
4 things. And I have no problems about sending you, as the  
5 Chairman, a copy, or have somebody send you a copy of the  
6 ins and outs on the data requests and the responses.

7 CHMN. FOREMAN: If you do that, in the procedural  
8 order what I have ordered is that you file a copy with  
9 appropriate other copies with Docket Control so that it's  
10 available to any member of the public who wants to see  
11 what is going on.

12 MR. MAGRUDER: I have no problems filing with  
13 Docket Control. They know me over there.

14 CHMN. FOREMAN: Well, sometimes you have got to  
15 harvest a few trees to get everything -- get the  
16 appropriate number of copies and everything in, and we're  
17 going to try to hold down on that as much as possible.

18 But again, I want to make sure that any  
19 communication you have with me, and that will be the only  
20 communication you have with anybody on the committee until  
21 the time of the hearing, is done in a way that's  
22 consistent with the procedural order.

23 MR. MAGRUDER: Yes, I understand. I will not  
24 communicate with you except through official papers that  
25 are copied to Docket Control.

1 CHMN. FOREMAN: Something in writing or something  
2 at the hearing like this. And we're going to have at  
3 least one more hearing in this matter before the hearing,  
4 a prehearing procedural hearing about a week to 10 days  
5 before the evidentiary hearing. And at that procedural  
6 hearing, we'll try and get everything organized so that  
7 the evidentiary hearing will move smoothly.

8 And it's at that time that I would probably want  
9 you to have made a decision whether you're going to be in  
10 or out. And I want you to have made whatever requests you  
11 were wanting to make for information far enough in advance  
12 so that the Applicant will have an opportunity to respond  
13 before that.

14 MR. MAGRUDER: From a timetable, I will make that  
15 decision within a week of seeing the application, number  
16 one. And number two, I have to see the application, and I  
17 don't know what I can ask about it, because I don't know  
18 the words yet that I would question.

19 CHMN. FOREMAN: Sure.

20 MR. MAGRUDER: And I probably could do that  
21 within two weeks after -- have a very good data request  
22 maybe even 10 days to the company. I would like them to  
23 respond, and then I would use the results of that data  
24 request for prefiled testimony. And I don't mind giving  
25 that to the company a week in advance. I don't think that

1 should be too hard for the company to work with.

2 CHMN. FOREMAN: Okay. Well, let's see if we can  
3 put together something that's meaningful here. Let's talk  
4 a little bit about dates. When is it that the Applicant  
5 thinks that you're going to want to file your application?

6 MR. DERSTINE: We talked about April 24?

7 MR. MILLER: Tuesday the 21st. That's what we  
8 had talked about last week.

9 CHMN. FOREMAN: So April 21st?

10 MR. DERSTINE: We're shooting for.

11 CHMN. FOREMAN: And, obviously, that's a proposed  
12 date.

13 And before we get past it, let me have the letter  
14 that was sent to prospective parties marked as Exhibit 1,  
15 and we'll make that a part of the record in this matter.

16 I have provided to the parties copies of a draft  
17 procedural order. I have also provided copies of a draft  
18 set of conditions.

19 Mr. Magruder, here is a copy for you.

20 MR. MAGRUDER: Thank you.

21 CHMN. FOREMAN: And I'll just go over those  
22 briefly. I will want at that pre-evidentiary hearing,  
23 procedural hearing for the parties to have sat down and  
24 discussed in advance a proposed certificate, the language  
25 of a proposed certificate and proposed conditions. I

1 think I only made one copy of the proposed conditions.  
2 It's here.

3 The proposed conditions are based upon language  
4 that has been used in prior certificates that have been  
5 granted by the Commission and the committee, but I have  
6 modified the language to make them a little clearer and to  
7 make them a little more comprehensive. They're intended  
8 as a starting point, not as an ending point.

9 But if you want to add to or subtract from them  
10 and you're going to use language from another certificate  
11 that was granted in the past, the procedural order directs  
12 you to indicate the prior certificate that you're using  
13 that you derived your language from. That will be an aid  
14 to me and it will be an aid to the committee in deciding  
15 which language to use for a particular condition.

16 And again, the whole idea here is to try and  
17 front-end load this to try and get as much of the  
18 preparation done as possible before the hearing so that we  
19 can have a hearing that moves along and decides everything  
20 that needs to be decided.

21 So I'll give that to you, and the record will  
22 reflect that the draft procedural order will be marked as  
23 Exhibit 2, and the draft conditions will be marked as  
24 Exhibit 3 for this hearing.

25 Now, you have been provided a draft notice and

1 the notice indicates that the hearing is scheduled June 2,  
2 3, and 4 at 9:30 a.m., and you have a location, which is  
3 at the Rio Esplendor Resort at Rio Rico.

4 Now, as I understand it from just reading the  
5 hearing and looking at the map I've been provided, the  
6 4-mile segment that we're talking about is going to be up  
7 south of South Tucson, south of Interstate 10; is that  
8 correct?

9 MR. DERSTINE: The actual length of the existing  
10 line and the overall length of the project runs close to  
11 60 miles.

12 CHMN. FOREMAN: Okay.

13 MR. DERSTINE: From the Vail substation in  
14 Tucson, Pima County, down to the Valencia substation in  
15 Nogales, Arizona, Santa Cruz County.

16 Rio Rico was selected as kind of an  
17 intermediate -- somewhat intermediate point in which to  
18 hold the hearings. The other possible locations are up in  
19 South Tucson, the southern edge of Tucson, or down in  
20 Nogales. And we felt that the facilities at the Esplendor  
21 resort and the location of Rio Rico was a suitable point  
22 for the hearings, at least the days that we outlined there  
23 in the draft notice.

24 CHMN. FOREMAN: Okay. And Mr. Magruder, do you  
25 have any problem with the location of the hearings?



1           MR. MAGRUDER: No. I have no problem with the  
2 location. In fact, most of the work and decisions are in  
3 that area.

4           CHMN. FOREMAN: Okay. Now, there is, I notice,  
5 one alternative route that is indicated on the map.

6           MR. DERSTINE: Yeah. And the map that I have  
7 given you is from our draft application, and so I'll say  
8 it's certainly subject to revision. And I have given a  
9 copy to Mr. Magruder.

10           I will say for the record it's not a good map in  
11 terms of illustrating the alternative routes that are  
12 being proposed for the various segments. You'll note from  
13 this map that the line and the project, for description  
14 purposes, has been broken down into four segments. We  
15 have a larger map of that. And I don't know that this  
16 larger map -- well, it probably does do a better job of  
17 outlining and showing the alternative routes.

18           But suffice it to say for -- on the small map  
19 there is -- on that Segment 1, you'll note it's broken  
20 into two pieces, A and B. There's a small, 4- to 5-mile  
21 Segment 1-A at the top. There's two alternative routes  
22 that are being proposed for the interconnection from the  
23 Nogales Tap to the Vail substation.

24           So this first northern segment of the project  
25 will remove the current interconnection at the Nogales Tap

1 and interconnect this line that serves Santa Cruz County  
2 and UNS Electric customers from Tucson Electric Power's  
3 Vail substation. And there's two alternative proposed  
4 routes for interconnecting at Vail from the Nogales Tap,  
5 and those are fairly well-shown on the map that's before  
6 you.

7           The rest of Segment 1, this 1-B you'll note  
8 that's bracketed there, there's no proposed changes to  
9 that length of the line, of the existing line, this  
10 existing line that's shown in orange. That portion of the  
11 project of the existing line was rebuilt under an older  
12 case, Case 78. It's already been reconstructed on steel  
13 monopoles. It's currently operating at 115kV, but it's  
14 built to 138kV standards. So our application submits that  
15 nothing needs to be done with that Segment 1-B or should  
16 be done with that segment of the line. It's fine in place  
17 and can be operated at 138kV, the increased capacity that  
18 we're --

19           CHMN. FOREMAN: So you're not asking for a change  
20 in the physical location of the line. You're simply  
21 asking for a change in the authorization for the size of  
22 the conductor on the pole; is that correct?

23           MR. DERSTINE: Correct.

24           MR. BECK: Well, actually, not for the size of  
25 the conductor, just for the voltage.

1 MR. DERSTINE: The conductors are already  
2 conductored.

3 CHMN. FOREMAN: For the capacity of the  
4 conductor.

5 MR. DERSTINE: The capacity.

6 CHMN. FOREMAN: Will there be a need for a new  
7 conductor?

8 MR. BECK: No.

9 CHMN. FOREMAN: Okay. All right.

10 MR. DERSTINE: So that 1-B would have no changes,  
11 and there's no alternative routes proposed for that  
12 section.

13 On down, you'll note that the remainder of the  
14 project contains four substations. And Kantor to Canez is  
15 the Segment 2, Canez to the Sonoita substation is  
16 Segment 3, and then down Segment 4 is Sonoita down to  
17 Valencia substation down to Nogales.

18 There are alternative routes proposed for those  
19 three segments, Segments 2, 3, and 4. For large portions  
20 of that, our preferred route is to stay with the existing  
21 line, which we would reconstruct from wooden H-frame  
22 structures to steel monopoles, reconductor and replace the  
23 line to upgrade the project to 138kV from the current  
24 115kV.

25 There are a number of -- in certain segments --

1 well, for most of that, Segments 2, 3, and 4, our  
2 preference is to use the existing route, but there are  
3 sections of the existing line due to encroachment and  
4 other problems that our preferred route moves outside of  
5 the existing alignment in certain segments, and so there  
6 are alternative routes proposed. As to those, we have a  
7 preferred route and there are alternatives as to each of  
8 those areas.

9 CHMN. FOREMAN: The encroachments that you speak  
10 about, are any of the encroachments development?

11 MR. DERSTINE: They range from basketball hoops  
12 and sheds, to buildings, to new construction, buildings,  
13 gas stations.

14 CHMN. FOREMAN: Homes?

15 MR. BECK: Probably not specifically homes that  
16 will conflict with the line itself. But some of the  
17 access issues we have getting back to the alignment are  
18 obstructed by houses that were built under what were  
19 access roads to the line.

20 So while the line itself is -- most of the  
21 encroachments right under the line are either sheds or  
22 fences, that type of item related to the housing, the only  
23 issues with actual houses are the access to get back to  
24 the line at certain locations.

25 CHMN. FOREMAN: Okay. Let me talk a little bit,

1 then, about a tour. It sounds to me like a tour might be  
2 meaningful, but it's not clear to me that a tour of the  
3 entire length would be helpful.

4 MR. DERSTINE: I think that is right. And it's  
5 certainly up to yourself and the members of the committee  
6 in terms of what they want to see and what would be  
7 helpful to them in terms of the tour.

8 But certainly in the areas -- our feeling was  
9 that in the areas of, you know, this Segment 2, 3, and 4  
10 where we are proposing -- where we have preferred  
11 alternative routes and there are other alternatives for  
12 consideration by members of the committee, it seems to me  
13 that those segments are probably worth looking at, and  
14 looking at the encroachments, looking at the obstacles to  
15 building in the existing alignment, those sorts of issues  
16 that we would have with reconstructing the line in place,  
17 and why we have suggested a new preferred alignment in  
18 those areas.

19 The larger question is, is it important to the  
20 members of the committee to travel this 26- to 20-mile,  
21 28-mile Segment 1-B, which is where we're not proposing  
22 any changes to the existing line. So that Segment 1-B is  
23 26 to 28 miles. It may, at the same time, be important to  
24 members of the committee to take a look at the two  
25 alternative alignments that we're proposing to conduct to

1 the Vail substation from the existing Nogales Tap, and  
2 that's at the northern tip. So if that northern aspect is  
3 important to the committee, that essentially involves  
4 travelling the length of this project, which I indicated  
5 is close to 60 miles in length traveling up from the  
6 Valencia substation in Nogales, all the way up to the Vail  
7 substation in Tucson.

8 MR. BECK: And part of our proposed case will be  
9 basically a Google flyover of the route so that the  
10 committee will have the opportunity to at least see what  
11 the terrain and existing facilities look like, which may  
12 assist in a decision on what you want to see in the field  
13 on the ground.

14 CHMN. FOREMAN: It is my interpretation of the  
15 rules of procedure that the decision as to whether a tour  
16 takes place is the legal responsibility of the chair of  
17 the committee. I am uncomfortable exercising that  
18 discretion without communicating with the members of the  
19 committee to find out if any of them think it would be  
20 helpful to actually eyeball what is involved.

21 Unfortunately, the Staff of the Corporation  
22 Commission has objected to me communicating with the  
23 members of the committee about whether they are interested  
24 in going on a tour unless it is at a meeting, an open  
25 meeting that has been noticed according to the open

1 meetings law.

2           So what I'm thinking I would like to do in this  
3 case is to plan a tour, but plan it for after the first  
4 day of the hearing so that I can get the input of my  
5 fellow committee members as to whether they want to go on  
6 a tour. And if so, how much of the length of the project  
7 they want to view.

8           I realize that means that you folks are going to  
9 have to have planned a tour that would be for the whole  
10 length for everybody, with the understanding that that's  
11 probably not going to happen. But I don't know of any  
12 other way to do it other than hold the hearing and then  
13 ask the committee if they want to go on the tour, and then  
14 have them choose between elongating the process by having  
15 a tour scheduled later on, or passing up something that  
16 they might otherwise have wanted to take advantage of.

17           So how long do you think it will take for you to  
18 put on your -- we'll call it case in chief.

19           MR. DERSTINE: I think at this time we're  
20 anticipating calling three witnesses: Mr. Beck to present  
21 essentially the overview of the project, purpose and need,  
22 discuss our preferred route on the length, why our  
23 preferred alignment moves away from the existing line in  
24 those locations, in those two primary locations in the  
25 lower segment;

1           And then we would call our two witnesses from  
2 Transcon, the environmental consultants, one to discuss --  
3 Mr. Miller to discuss the public process, and then Mike  
4 Warren to discuss -- present testimony on the  
5 environmental impacts of the project itself.

6           I'm guessing that those witnesses, anticipating  
7 some amount of questioning and cross-examination, would  
8 probably take a day, maybe longer. But we could certainly  
9 get it done in a day, I would hope.

10           CHMN. FOREMAN: Well, certainly I would hope that  
11 we could get far enough into the case so that the  
12 committee members could make an intelligent decision about  
13 whether they wanted to go on a tour.

14           MR. DERSTINE: I think that's right. And  
15 certainly within that first day we would be able to  
16 present the testimony overall in the project, as well as  
17 break it down. We anticipate providing testimony, and the  
18 application does this as well, broken down in the various  
19 segments, and discuss the alternatives and our preferred  
20 routes where they move out of the existing alignment. And  
21 I think that testimony, certainly the testimony from  
22 Mr. Beck on the project itself, would at least give the  
23 members of the committee the ability to make some  
24 judgments about what they want to see.

25           And when we talk about those segments, I think we



1 anticipate using the Google flyover, which would give some  
2 perspective of the route where we have the encroachment  
3 and the issues with being able to construct and put new  
4 poles in place.

5 I think the Google simulation will show some of  
6 that terrain, show the difficulties that we're going to  
7 encounter in trying to rebuild the line in place, and why  
8 we've selected a new preferred alignment and where that  
9 preferred alignment is, as well as outlining some of the  
10 other alternative alignments. So I think we can certainly  
11 get through that testimony within that first day, and I  
12 think that would give yourself and the members of the  
13 committee the ability to make some judgment about how much  
14 time you want to spend in a van driving around Santa Cruz  
15 County.

16 CHMN. FOREMAN: Tara, the dates that are referred  
17 to here, June 2, 3, 3, have you talked to the committee  
18 members and those are ones that appear to be open?

19 MS. WILLIAMS: Yes. They seem to be open to most  
20 of the committee members.

21 CHMN. FOREMAN: All right. Then let's do it this  
22 way. Let's plan to have a tour. Let's plan for the tour  
23 to commence -- it's going to be June in Arizona. I would  
24 like it to commence at, say, 8:00? Well, you better make  
25 it 8:30, because we'll have some committee members who

1 will probably drive from home. So let's make it at 8:30  
2 rather than 9:30 on the second day, which would be June 3.

3 Now, as a part of the tour, we're going to be  
4 taking a court reporter along. And the court reporter  
5 may, of course, dress appropriately. We're going to want  
6 predetermined stops. We will want at least one witness to  
7 be available, either somebody who has previously been  
8 sworn or someone that I will swear at the time.

9 That witness will provide testimony about where  
10 we are physically at the stop, what it is we can see from  
11 that stop, and what relevance that has to the application.  
12 And I anticipate it would go something like this: "We're  
13 at Stop No. 2 on the map. If you go that way, that is the  
14 proposed line. If you go that way, that's the proposed  
15 line going the other direction. The corridor will be  
16 1,000 feet this way and it will be 1,000 feet that way,  
17 and 1,000 feet that way goes over that fence, and it goes  
18 over to about that flag or something over there."

19 Basically, I'm going to want the testimony to  
20 involve just where the lines and alternatives -- the  
21 proposed line and proposed alternatives are located, where  
22 the corridors are located, what you can see from those  
23 locations. We can then handle other explication about the  
24 pluses and minuses of one route over another at the  
25 hearing and during deliberations.

1           But I do not know any way to conduct a tour that  
2 takes folks in a van out in the middle of the desert and  
3 dumps them out and doesn't even tell them which way is  
4 north or what it is they're viewing or where it is they're  
5 at. And that type of information is information that,  
6 again, there's been concerns expressed about. And so just  
7 to make the record clear and make sure that there's no  
8 objection, we're going to conduct it in a way so that that  
9 information is communicated by means of testimony that's  
10 formally taken as a part of the hearing process.

11           Any questions about that?

12           MR. DERSTINE: No. I think Mr. Jerden is already  
13 trying to design some sort of a special pedestal or  
14 something so that the court reporter can sit within a van  
15 and be locked down. So we're working on the logistics of  
16 that and so he's excited about that project.

17           MR. JERDEN: I do have a question though, Judge  
18 Foreman. And that is, the driver of the vans will  
19 probably be, of necessity, either utility employees or  
20 consultant employees, consultant to the utility. And we  
21 did this last year in a previous case. That was then,  
22 this is now, and I understand that.

23           Should I assume that these people to drive are  
24 really to not expound on anything? Merely drive, talk  
25 about the time and temperature, and that's about it until

1 you get to a site, and then you can have your sworn in  
2 witness talk about that?

3 CHMN. FOREMAN: After my experience of the past  
4 year, I will be giving explicit instructions to the  
5 committee members and to the drivers and people who are in  
6 the vans, and they will not discuss anything associated  
7 with the case when they're in the vans between the stops.

8 The people on this committee are sophisticated,  
9 intelligent, responsible people who are donating their  
10 time, and I'm not going to treat them like children. They  
11 are going to get -- they are going to get instruction from  
12 me, and they are going to be able to make decisions about  
13 what they talk about on their own. I'm not going to tell  
14 them what it is they can talk about. I'm only going to  
15 tell them they can't talk about the case, and I'm going to  
16 leave it to them to act responsibly.

17 MR. JERDEN: Very good. I just wanted to line  
18 that up in thinking ahead and recruiting the people to be  
19 there on that day and be consistent with whatever I  
20 expected you to come forth with. So that is fine.

21 CHMN. FOREMAN: Okay. Yes, sir.

22 MR. MAGRUDER: Can parties ask the sworn person,  
23 whoever that is, questions or elaborate? Because maybe  
24 there's a development going in here that wasn't mentioned  
25 or things like that.

1 CHMN. FOREMAN: Absolutely. All parties are -- I  
2 mean, this is going to be part of the hearing, so all  
3 parties have an absolute right to be there. The reason  
4 we're only going to take the testimony at specific  
5 locations is so we will all be able to be together.

6 If there are questions that you want to ask to  
7 develop the record and it's relatively short, I'm not  
8 going to have a problem with it. If it's something that  
9 is more involved, then we can address that at the time.  
10 If it's something that I think makes sense to talk about  
11 out in the field, we'll talk about it out there. If it's  
12 something that I think makes more sense to talk about it  
13 back in the hearing room, we'll talk about it out there.

14 And things like temperature, blowing dust, and  
15 visibility, how hot everybody is, those are things that we  
16 will have to gauge at the time we're in the field. And if  
17 there are people who are not parties who are members of  
18 the public who want to watch and listen, they'll have that  
19 opportunity also.

20 MR. DERSTINE: My comment was that this may be --  
21 certainly the length of this project doesn't lend itself  
22 that easily to a tour. At the same time, this is an  
23 upgrade of an existing line. Much of the project uses the  
24 existing alignment, and so you have that as a reference  
25 point and you're not necessarily bouncing around out in

1 the desert looking at raw land and trying to figure out  
2 where this route is going to occur. But certainly I think  
3 we can plan for a good tour. And we did a run several  
4 months ago for counsel to try to get an understanding of  
5 the project. So I think we can put together a tour that  
6 will illustrate and give the members of the committee a  
7 good understanding of the project and where we're  
8 proposing a new preferred alignment. And where there are  
9 other alternatives, to be able to show those in a good  
10 fashion.

11 CHMN. FOREMAN: Well, we have two pending matters  
12 that have -- how shall we say this -- logistical  
13 limitations on the ability to do a tour, and so we're not  
14 going to be doing tours on the next two applications. And  
15 they're short lines. The proposed lines are going to go  
16 over mine tailings or in areas where there are safety  
17 concerns.

18 And so I would expect the same sort of thinking  
19 to go in here. Nobody wants to put the safety of the  
20 committee members at risk. If there are parts of the line  
21 that are probably not going to be terribly helpful to  
22 tour, you can discuss that at the time we talk about the  
23 tour on the first day of the hearing. And we may want to  
24 limit the number of stops just for that reason so that we  
25 don't have a lot of concerns about chopping off an

1 uninteresting section here or there.

2 MR. DERSTINE: Understood.

3 CHMN. FOREMAN: Okay. All right. There are  
4 requirements for marking exhibits that I want to call to  
5 your attention. The Applicant gets to consecutively  
6 number its exhibits A-1, A-2, et cetera.

7 And Mr. Magruder, do you have any objection to  
8 marking your exhibits M-1, M-2, et cetera?

9 MR. MAGRUDER: I have no objections, and that's  
10 what I have done before.

11 CHMN. FOREMAN: Okay. That would make a lot of  
12 sense. If you have materials that you want the committee  
13 members to have physically with them as the hearing  
14 starts, I would like for them to be three-ring punched and  
15 available for inclusion in a binder or notebook for each  
16 committee member at the beginning of the session. I want  
17 to try to avoid more than one binder, but I would like to  
18 have one binder that contains the important materials that  
19 folks can make reference to available for them.

20 A map is always valuable. A description of  
21 particular issues that are of importance is always  
22 valuable. Those are the sorts of things that I encourage  
23 you to put into a form. If there's a particular letter or  
24 memo that you think is going to be key to your case and  
25 it's not terribly long, getting that into the group of

1 materials to be put in the binder I think will be  
2 important. We would like to have dividers so that we can  
3 tell the difference between the Applicant's materials and  
4 any other parties' materials.

5 I will want you folks to meet and confer  
6 concerning this before that last procedural conference  
7 before the hearing. If you haven't done it by then, I'll  
8 be telling you at that conference I want this done before  
9 the hearing. So I'll just warn you about it in advance.

10 Again, I want as much of the material preparation  
11 to be done before the hearing as possible so we don't have  
12 to waste time on that.

13 MR. DERSTINE: The application will be fairly  
14 large, and what we have -- our practice in the past has  
15 been to provide members of the committee with their own  
16 binder that contains the application and the various  
17 exhibits. And so I anticipate there will be a binder, a  
18 three-ring binder that will contain the application and  
19 the various exhibits, and then one binder that would  
20 contain the hearing exhibits, et cetera. So we have the  
21 formal application binder, and then the hearing exhibit  
22 binder.

23 CHMN. FOREMAN: That makes sense. And I  
24 encourage you to be as concise as possible in the hearing  
25 exhibits binder.



1 MR. DERSTINE: Okay.

2 CHMN. FOREMAN: One really good exhibit is worth  
3 5 or 10 or 15 or 20 exhibits that are harder to decipher.

4 MR. DERSTINE: Okay.

5 CHMN. FOREMAN: Mr. Magruder.

6 MR. MAGRUDER: On the number of copies, generally  
7 we have to submit 25 copies for anything that goes to  
8 Docket Control.

9 CHMN. FOREMAN: Yes.

10 MR. MAGRUDER: Plus 10 now for the committee?

11 CHMN. FOREMAN: Well --

12 MR. MAGRUDER: Or can I use that 10 and only send  
13 them 15?

14 CHMN. FOREMAN: No. You're going to have to  
15 comply with the Docket Control rules. I am a presiding  
16 officer with limited powers, more limited even than I had  
17 imagined, and so I have no ability to control Docket  
18 Control. If you offer -- and anything that you come up  
19 with an offer at the last minute, you're going to have to  
20 submit to Docket Control after the hearing.

21 But the materials that you provide to Docket  
22 Control, let's say at least a week in advance, should be  
23 made available to the hearing members. So I don't think  
24 you have to duplicate there. You will have to duplicate  
25 if you provide something at the hearing itself.

1 MR. MAGRUDER: Thank you.

2 CHMN. FOREMAN: All right. Again, to address an  
3 issue that has arisen in the recent past, I'll be  
4 submitting an agenda. You'll be getting a copy of it. If  
5 you have concerns about its compliance with the  
6 appropriate statutes, I'll want you to immediately  
7 indicate to me your concerns.

8 It will be important that the Applicant contact  
9 Michael Kearns, who was the chief finance officer and I  
10 think is still doing that. But make sure that all of the  
11 financial arrangements have been made.

12 We'll talk about the notice of hearing in a  
13 moment. You apparently have already made arrangements  
14 with regard to the location.

15 MR. DERSTINE: We have reserved the space in  
16 anticipation that those days might work.

17 CHMN. FOREMAN: Okay. I have explained the  
18 testimonial summaries and disclosure and prefiling of  
19 testimony to you.

20 MR. DERSTINE: Can I ask you on that issue, on  
21 the testimonial summaries?

22 CHMN. FOREMAN: Sure.

23 MR. DERSTINE: We can go back and look and see  
24 what counsel have done in prior cases, but can you give us  
25 some guidance on how extensive the summaries -- I mean,

1 are we looking at 26 disclosure of summaries? Is it  
2 Mr. Beck will testimony on purpose and need, as well as  
3 describe the project route and its alternatives? Can it  
4 be as simple as that or something in the middle? I wanted  
5 to get a good sense of what you were looking for.

6 CHMN. FOREMAN: Something in the middle, and I'm  
7 not sure where I want to draw the line. I do not want to  
8 make this as onerous as a Rule 26 disclosure statement.

9 On the other hand, what I want is any opposing  
10 party to have a fair opportunity to understand what the  
11 witness is going to say. Not just the ultimate  
12 conclusion, but the reasoning that would support that  
13 ultimate conclusion so that they can have a fair  
14 opportunity to cross-examine the person.

15 MR. DERSTINE: Okay.

16 CHMN. FOREMAN: And presenting prefiled  
17 testimony, it seems to me, is an easy way of dealing with  
18 that. You cannot anticipate every direction that  
19 testimony is going to go. You can't anticipate the  
20 questions that are going to be asked on cross-examination.  
21 You can't anticipate the questions that are going to come  
22 from the committee members. But you can anticipate what  
23 it is that you want this witness to say, and why that  
24 witness's testimony should be accepted by the committee.  
25 And that is something that is, I think, relatively easy to

1 provide.

2           It needs to be something more than just a  
3 conclusory statement of the bottom line. You need to show  
4 a little bit of the reasoning to get there. But you don't  
5 need to just put reams and reams of paper.

6           MR. DERSTINE: So the testimony summary or  
7 prefiled direct testimony, together with an exhibit that  
8 will be introduced through that witness, as well as a  
9 PowerPoint presentation, if one is going to be presented,  
10 should be essentially filed in advance of the hearing?

11           CHMN. FOREMAN: Yes. And it's something that you  
12 need to share with the other witnesses. I'm going to  
13 expect Mr. Magruder to, if he decides to become a party,  
14 that he will have to do that. That's one of his  
15 obligations if he wants to assume it. You're going to  
16 need to provide that to him.

17           Now, with regard to data requests, if you have  
18 got data requests of him or he's got data requests of you,  
19 those will need to be done far enough in advance so that  
20 there's a reasonable opportunity to respond to them before  
21 that last prehearing procedural conference.

22           And I'm not sure when we'll schedule that last  
23 prehearing procedural conference, but it will be  
24 approximately a week to 10 days before the hearing  
25 commences. So that puts us up close to Memorial Day.

1 Because of the Memorial Day weekend, we may be doing it  
2 the week before or maybe the day after Memorial Day,  
3 something like that.

4 MR. DERSTINE: So we're looking at a target date  
5 for us is April 21 for the filing of our application and  
6 commence the hearings on June the 2nd. So we'll have a  
7 prehearing conference somewhere 5 to 10 days before  
8 June 2.

9 CHMN. FOREMAN: Probably 7 to 10 or 7 to 12  
10 something like that.

11 MR. DERSTINE: That gives us somewhat of a  
12 limited time period for a data request. You know, we've  
13 worked with Mr. Magruder in the past. I would hope that  
14 he takes a careful look at the application and then  
15 tailors any sort of data requests that he has. I'm  
16 certainly happy to confer and discuss and answer any  
17 questions directly rather than going through data  
18 requests.

19 So I'm hopeful that we can work together on that,  
20 but I guess I want to be careful about -- in other cases  
21 have received piles of onerous data requests. When we're  
22 on a short time frame like this, it seems to me sometimes  
23 those are appropriate and oftentimes are not. So we'll  
24 just have to wait and see what we get.

25 CHMN. FOREMAN: And you know my telephone number.

1 MR. DERSTINE: Right.

2 CHMN. FOREMAN: We'll need a court reporter, but  
3 I have no problem with having you folks appear by phone  
4 with a court reporter and talking about the requests and  
5 making rulings on them.

6 MR. DERSTINE: Very good.

7 CHMN. FOREMAN: But I'll want you to try and work  
8 it out beforehand. And again, what I'm going to look at  
9 is, is this a reasonable request? In other words, is it  
10 information that is reasonable for you to want? Is it a  
11 reasonable amount of time to respond to the request?  
12 Those are the two things that are going to be key for me.  
13 So I'll let you folks try and wrestle with that, but if  
14 you need my help, I'm there.

15 MR. DERSTINE: Thank you.

16 MR. MAGRUDER: My schedule is tight, and I'll  
17 give you -- I'm in a water case, and I've got to do a -- I  
18 will get the rates on the 17th of April. My brief is due  
19 on the 1st of May, and my reply brief is due on the 15th  
20 of May. And in the middle, I'm spending ten days on the  
21 Navajo Indian reservation volunteering at the Hubbell  
22 Trading Post without e-mail. And so I'm just -- I have  
23 got a pretty tight schedule.

24 MR. DERSTINE: You don't have any time to serve  
25 data requests. You better just show up at that hearing.

1 CHMN. FOREMAN: Well, let me talk to you a little  
2 bit, without meaning to suggest I think you ought to  
3 request to intervene or that I think you ought not request  
4 to intervene.

5 I meant what I said initially. If you decide  
6 that you don't want to assume the burden of intervening  
7 formally as a party, you still have the opportunity to  
8 make a presentation as a member of the public. And  
9 frankly, if you have got witnesses or materials that you  
10 want presented to the committee and you can make a  
11 reasonable argument for including them, I and the  
12 committee are probably going to look favorably on  
13 inclusion of those materials in the record. Because it's  
14 a lot easier to put stuff into the record so that we've  
15 got it to consider than to keep it out.

16 So I don't know whether that helps you or not,  
17 but I want you to --

18 MR. MAGRUDER: Thank you. Thank you for that  
19 opportunity. But I think because I might be the only  
20 intervenor, I think it's important that there at least be  
21 somebody there that's able to cross-examine. And I'm  
22 fairly familiar, probably more than most people, with  
23 things along that line. And therefore, intervening, I  
24 probably will do that.

25 CHMN. FOREMAN: Okay. Well, that is your call.

1 MR. MAGRUDER: Yeah. I understand.

2 CHMN. FOREMAN: But I'm just telling you that if  
3 you decide for whatever reason you don't feel that you can  
4 or should do it, there are still things that -- there are  
5 opportunities that I will provide that will allow you to  
6 put into the record everything that you think needs to be  
7 in the record that I do, too. Okay.

8 MR. MAGRUDER: Thank you.

9 CHMN. FOREMAN: Now, let's see. I think we  
10 covered most everything in the pre-application or  
11 prehearing order.

12 I do want you to file a transcripts with a couple  
13 of public libraries. It seems to me one in Tucson and one  
14 in Nogales would make sense.

15 MR. BECK: There's also one in Green Valley.

16 CHMN. FOREMAN: Wherever. Just find a couple  
17 that are in the vicinity that would be accessible to  
18 people who will be impacted by the line and make sure that  
19 those get filed. And then there's a certification that  
20 you'll need to file, and you can identify the locations of  
21 the places that you filed them in that certification.

22 And again, let me stress, I want you to sit down  
23 before the hearing and talk about what's actually  
24 contested and what is not. If you can agree on 90 percent  
25 of the findings of fact and conclusions of law, 90 percent



1 of what should go into the CEC, 90 percent of the  
2 conditions, and you disagree on 10, you will help the  
3 committee members a great deal if you can identify what  
4 you agree on. And, obviously, by doing that identify what  
5 you disagree on and where you disagree. Show us why you  
6 disagree and what your proposal is and what the company's  
7 proposal is. So that will help us focus our thinking in  
8 evaluating this application.

9 MR. MAGRUDER: Before our meeting today, I  
10 provided even a handout of the issues that I have to the  
11 company. They have a copy. I'll show it to you if you  
12 want to.

13 CHMN. FOREMAN: I'll wait.

14 MR. MAGRUDER: You'll wait. So they know. And I  
15 have been talking to them on many of these issues for five  
16 years, so none of them, I don't think, are surprises. And  
17 so we know where -- they know what I want to talk about --

18 CHMN. FOREMAN: Okay.

19 MR. MAGRUDER: -- before we even get to the  
20 hearing.

21 CHMN. FOREMAN: Well, that's good. That's what  
22 we want. What I do not want is trial by ambush. What I  
23 do want is everybody to have an opportunity to fully  
24 explain their position, and I want the committee to have a  
25 full opportunity to evaluate those two positions and make

1 a reasoned choice.

2 Now, I have put time limits for opening  
3 arguments. I did that out of an abundance of caution  
4 after one of the cases that I had last fall that involved  
5 18 parties and was more of a management challenge than I  
6 am anticipating this case will be. I don't want you to go  
7 on and on, but I'm going to be somewhat flexible on that,  
8 especially with regard to the non-applicant parties.

9 Closing arguments are probably going to be either  
10 the afternoon of the second day or the third day. And so  
11 again, the proposed language for a Certificate of  
12 Environmental Compatibility and accompanying conditions  
13 I'm going to want at the hearing, to be available at the  
14 hearing.

15 I would hope that you would have a computer setup  
16 that you could project onto the wall so we can do some  
17 word processing there. That's always helpful. But even  
18 with that capability in the TS-5 to TS-9 case, I ended up  
19 getting the final, signed CEC filed with all of two hours  
20 to spare on the first business day after Christmas. So I  
21 want to make sure that as much narrowing of language is  
22 done before the hearing as possible so that, again, we can  
23 be as efficient as possible.

24 And I'll want the parties to get together after  
25 the hearing, discuss the language of the CEC, so that what

1 is ultimately presented to me for signature is something  
2 that the parties at least can agree upon.

3 And if you can't agree that that is what we, in  
4 fact, approved, then say, "We agree that this 99 percent  
5 is what we agreed upon. We disagree with the wording  
6 here, and we disagree with the wording there, and here is  
7 what we think the wording ought to be rather than what was  
8 proposed," so that, again, we have points of contention  
9 narrowed so that I can focus on what is really at issue,  
10 and I'm not just sitting there trying to draft from my  
11 notes and my recollection of what was decided.

12 MR. DERSTINE: Understood.

13 CHMN. FOREMAN: All right. Are there other  
14 questions, then, that you folks have?

15 MR. DERSTINE: I wanted to touch on, for purposes  
16 of the notice, public comment. When would you anticipate  
17 wanting to hold public comment? Is it before each day, or  
18 would you prefer an evening public comment section for  
19 purposes of drafting the notice of hearing?

20 CHMN. FOREMAN: For purposes of the notice and  
21 for the agenda that will follow, I'll want a public  
22 comment period scheduled at, say, 6:00 on the evening of  
23 the first day of the hearing. I will also want an  
24 indication that public comment may be heard as needed  
25 during the day. By doing that, my desire is to give an

1 opportunity to both those folks who are available during  
2 the day and would like to attend the hearing and make  
3 their public comment as a part of that process, and those  
4 people who have a job that prevents them from being there  
5 during the day but would still like to have their voices  
6 heard. So by making that public comment session at the  
7 end of the first day, we give both sets of folks the  
8 opportunity to appear and say something.

9 Now, if we have, for example, someone who follows  
10 us along on the tour and gets back -- and we get back to  
11 the tour and somebody wants to make a public comment, I  
12 would probably consider that, too, and allow that, too.

13 So I want the flexibility to be able to allow  
14 public comment on any day of the hearing at the discretion  
15 of the Chairman, but we will specifically set aside that  
16 one time in the evening for public comment, and I  
17 anticipate that would be the only thing that would be done  
18 at that session.

19 MR. DERSTINE: Okay. So the evening session  
20 should be identified in the notice, as well as language  
21 that indicates that the public comment will be taken at  
22 appropriate times; is that correct?

23 CHMN. FOREMAN: Yes.

24 MR. DERSTINE: Okay. Signs and posting. We've  
25 talked about this and wrestled with it a little bit,

1 because we have a 60-mile project. In certain segments we  
2 have alternative routes that cross into open desert. I'm  
3 trying to get a sense of what you would prefer to see and  
4 what you are seeing from other applicants in terms of  
5 posting.

6 CHMN. FOREMAN: Well, I'm not comfortable in  
7 thinking that I have a formalized opinion about exactly  
8 what sort of notice would be necessary. I would like to  
9 have a sign that has lettering consistent with a highway  
10 safety sign that is at least, you know, one foot by 18  
11 inches, or 18 inches by 30 inches, that indicates the  
12 basic information that's going to be on the notice: The  
13 name of the project, where this person can go to find  
14 information out about the project, some of the descriptive  
15 information, for example, that's in your notice, and the  
16 dates and times of the hearing. So I want all of that  
17 information to be on the signs.

18 I would like the signs to be visible to people  
19 who are driving on roads that would intersect with the  
20 proposed lines or the alternatives. I don't know how many  
21 of those there will be. Obviously, I don't think it's  
22 necessary to put one sign here and in another 10 feet  
23 another sign. But the areas where there are significant  
24 traffic patterns crossing the lines or coming close to the  
25 lines, I would like to see signs in those areas.

1                   And then in the desert spaces in between, I think  
2 something that's reasonable there would be, you know,  
3 every few miles. So if you have got a 20-mile segment in  
4 the desert, maybe every two miles, something that would  
5 show both ways so that if you had somebody walking across  
6 the line or walking along the line, they would be able to  
7 say, "It appears that this is a proposed line."

8                   It would give them the information that they  
9 would need to seek further information about it, and it  
10 would tell them a little bit about where they ought to go  
11 and what they ought to do, or where they ought to be when  
12 a hearing was going to be held on this. It would allow  
13 them public input.

14                  MR. JERDEN: If I may ask a question to clarify.  
15 We have, as Mr. Derstine said, we have 26 miles that we're  
16 not going to physically do anything with. Would it be  
17 safe to assume that we need not sign that area? Because  
18 even if our application is completely successful, nothing  
19 will change as to that 26-mile segment.

20                  CHMN. FOREMAN: I think that that is -- well,  
21 that's an interesting question. I think you're going to  
22 need some notice, but not the kind of notice that you're  
23 going to need where you're actually going to be changing  
24 the post, the structures that the line is on, or where you  
25 don't have any preexisting structure at all.

1 I would think that if you have got 26 miles of  
2 steel monopoles and you're not changing the poles and  
3 you're not changing the line, then one at one end and one  
4 at the other end, and maybe one in the middle or a couple  
5 in the middle so that if you're going either way, why,  
6 that would make some sense.

7 But I don't see any reason to -- I'm much more  
8 concerned about the places where there's encroachment  
9 where you're going to be changing the poles out where  
10 there's no structure at all.

11 Of course, I'm going to want as a part of your  
12 presentation a description of what notice you have posted,  
13 where you have posted it.

14 MR. JERDEN: And in the past we've come up with a  
15 submittal, an exhibit, if you will, that shows a picture  
16 of the sign, a typical sign, and a map showing the  
17 locations along the route where those maps were posted.

18 CHMN. FOREMAN: And I think that would be great.  
19 Again, I'm going to be most concerned about the places  
20 where there isn't any structure now and the places where  
21 there is a lot of traffic or encroachment. So those are  
22 the two different factors where there's human contact with  
23 where the line is going to go or going to change, and,  
24 obviously, more emphasis on places where there isn't  
25 presently a line.

1 Other questions?

2 MR. MAGRUDER: I would like to make a suggestion,  
3 and I'm not sure how to do it, that would benefit the  
4 company, benefit you, reduce the number of intervenors,  
5 and reduce the blood pressure of the people in the local  
6 community.

7 First, I would recommend the company do a  
8 briefing this month at the Santa Cruz Valley Citizens  
9 Council, this month, before the application gets out,  
10 number one.

11 Number two, the blue Segment 2, I think, is there  
12 primarily for giving an alternative. If it's not there  
13 primarily to give an alternative, you'll need a week to  
14 get through Tubac and all of the complaints that you'll  
15 get and you'll probably have a dozen homeowners  
16 associations intervening, and I don't think that's  
17 healthy.

18 And I want to make -- I want to -- because Tubac  
19 is one place that does get rather excited, and I don't  
20 want to have my neighbors get excited when there's maybe  
21 only a 2 percent probability that that blue route in  
22 Segment 2 would be used. So my third comment is please  
23 word it so that it's a very, very low probability, and  
24 submit it for comparison purposes only, or something like  
25 that. Or when you put those signs up there, I won't be



1 able to get to sleep for days because I'll be on my phone  
2 all the time.

3 MR. DERSTINE: I know it. We're hoping that  
4 you'll get the word out. You'll see when you read the  
5 application that that is not our preferred route, and that  
6 your, as you have characterized it, to a large degree that  
7 blue piece in Segment 2 is an alternative to have an  
8 alternative, largely because we have been told by the  
9 committee and the Commission more than once that we need  
10 to have alternative routes. But that's not our preferred  
11 route, and the application makes the point of that, and so  
12 we're counting on you to get the word out --

13 MR. MAGRUDER: I'll try.

14 MR. DERSTINE: -- to your neighbors and friends.

15 MR. MAGRUDER: I can't go to the post office  
16 after you have your open house, and it takes me three  
17 hours to go the post office because everybody is asking me  
18 the same questions.

19 And I just want to make it better, because  
20 Segments 3 and 4 require discussion. Segments 3 and 4 are  
21 really critical. And I don't know the answers there. I  
22 sort of know what I want for 3. But No. 4, I've got to go  
23 on that tour.

24 MR. DERSTINE: Right.

25 CHMN. FOREMAN: Okay. Very good. Those are

1 helpful thoughts.

2 MR. DERSTINE: I guess assuming we meet our  
3 target date of April 21, we'll revise the notice with the  
4 information that we've talked about about public comment,  
5 et cetera, and then submit that to you for approval?

6 CHMN. FOREMAN: Yes. I want you also to submit  
7 it to Mr. Magruder, and I also want you to submit it to  
8 the Corporation Commission Staff just as a courtesy.

9 MR. DERSTINE: All right.

10 CHMN. FOREMAN: And we will go from there.

11 MR. DERSTINE: Fair enough.

12 MR. JERDEN: I'm sorry. One more question on the  
13 notice. If we're planning at least tentatively to have a  
14 tour in the cool morning hours of the second day beginning  
15 at 8:30, we've written a notice now for 9:30, for each  
16 session starting each day at 9:30. We can reword that to  
17 say 9:30 to 8:30, and 9:30 on the respective days. Is  
18 that how you would prefer it?

19 CHMN. FOREMAN: Yes.

20 MR. JERDEN: And if we don't go on a tour, we've  
21 got to at least show up at 8:30 and say this is adjourned  
22 until 9:30.

23 CHMN. FOREMAN: Yes.

24 MR. JERDEN: Okay. I just wanted to make sure I  
25 had in mind what you had in mind.

1 CHMN. FOREMAN: Yes. It may just be me, but  
2 there will be somebody there at 8:30.

3 MR. JERDEN: We'll amend that. Thank you.

4 MR. MAGRUDER: And the court reporter.

5 CHMN. FOREMAN: Yes.

6 Any other questions?

7 All right. Very good. Thank you, gentlemen.  
8 Look forward to working with you on this matter and look  
9 forward to getting the draft of your notice of hearing.

10 (The Prefiling Meeting concluded at 3:25 p.m.)

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1 STATE OF ARIZONA )  
 ) ss.  
 2 COUNTY OF MARICOPA )

3

4 I, MICHELE E. BALMER, Certified Reporter  
 5 No. 50489 for the State of Arizona, do hereby certify that  
 6 the foregoing printed pages constitute a full, true and  
 7 accurate transcript of the proceedings had in the  
 8 foregoing matter, all done to the best of my skill and  
 9 ability.

10

11 WITNESS my hand this 27th day of April, 2009.

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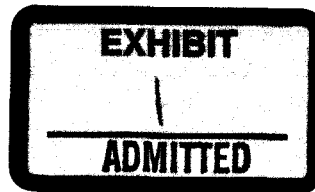
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25

*Michele E. Balmer*  
 MICHELE E. BALMER  
 Certified Reporter  
 Certificate No. 50489

# EXHIBITS

Ex-1



**ROSHKA DEWULF & PATTEN**

ROSHKA DEWULF & PATTEN, PLC  
ATTORNEYS AT LAW  
ONE ARIZONA CENTER  
400 EAST VAN BUREN STREET  
SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO 602-256-6100  
FACSIMILE 602-256-6800

April 3, 2009

Sent Via E-Mail and U.S. Mail

The Honorable Octavio Garcia, Mayor  
City of Nogales  
777 N. Grand Avenue  
Nogales, AZ 85621

Mike Heim, City Manager  
City of Tucson City Hall  
255 West Alameda  
Tucson, AZ 85701

Jim Stahle, Town Manager  
Town of Sahuarita  
375 West Sahuarita Center Way  
Sahuarita, AZ 85629

C.H. Huckelberry, County Administrator  
Pima County Governmental Center  
130 West Congress Street  
Tucson, AZ 85701-1317

Melinda Meek  
Clerk of the Board  
Santa Cruz County Board of  
Supervisors  
2150 North Congress Drive  
Nogales, AZ 85621

Marshall Magruder  
P.O. Box 1267  
Tubac, AZ 85646-1267

Michelle Muench  
Arizona State Land Department  
177 North Church Avenue,  
Suite 1100  
Tucson, AZ 85701

Re: In the Matter of the Application Of UNS Electric, Inc. for a Certificate Of Environmental Compatibility for the Vail To Valencia 115 kV To 138 kV Transmission Line Upgrade Project, originating at the existing Vail Substation In Sec. 4, T.16S., R.15E., Pima County, to the existing Valencia Substation In Sec. 5, T. 24S., R.14E., in the City of Nogales, Santa Cruz County, Arizona.

To Whom It May Concern:

The purpose of this letter is to provide notice that UNS Electric, Inc. will soon be filing its Application to the Arizona Corporation Commission ("Commission") for approval of the above-captioned Project. This Application is being filed pursuant to A.R.S. §§ 40-360 through 40-360.13, and A.A.C. R14-3-201 through R14-2-219 and will be heard by the Arizona Power

ROSHKA DEWULF & PATTEN

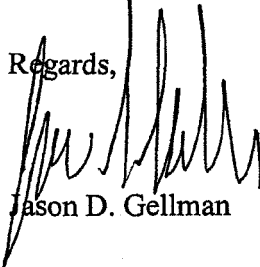
The Honorable Octavio Garcia, Mayor  
Mike Heim, City Manager  
Jim Stahle, Town Manager  
C.H. Huckelberry, County Administrator  
Melinda Meek, Clerk of the Board  
Marshall Magruder  
Michelle Muench  
April 3, 2009  
Page 2

Plant and Transmission Line Siting Committee ("Committee"). UNS Electric intends to file that Application by mid to late April, 2009.

To that end, UNS Electric has scheduled with Committee Chairman John Foreman a pre-filing conference to take place April 8, 2009 at 2:00 p.m. at 1275 West Washington Street, Phoenix, AZ 85007. UNS Electric believes you may be interested in intervening and participating in the hearings before the Committee. Should you be interested in intending the pre-filing conference, please contact Tara Williams ([tara.williams@azag.gov](mailto:tara.williams@azag.gov)) at the Arizona Attorney General's Office.

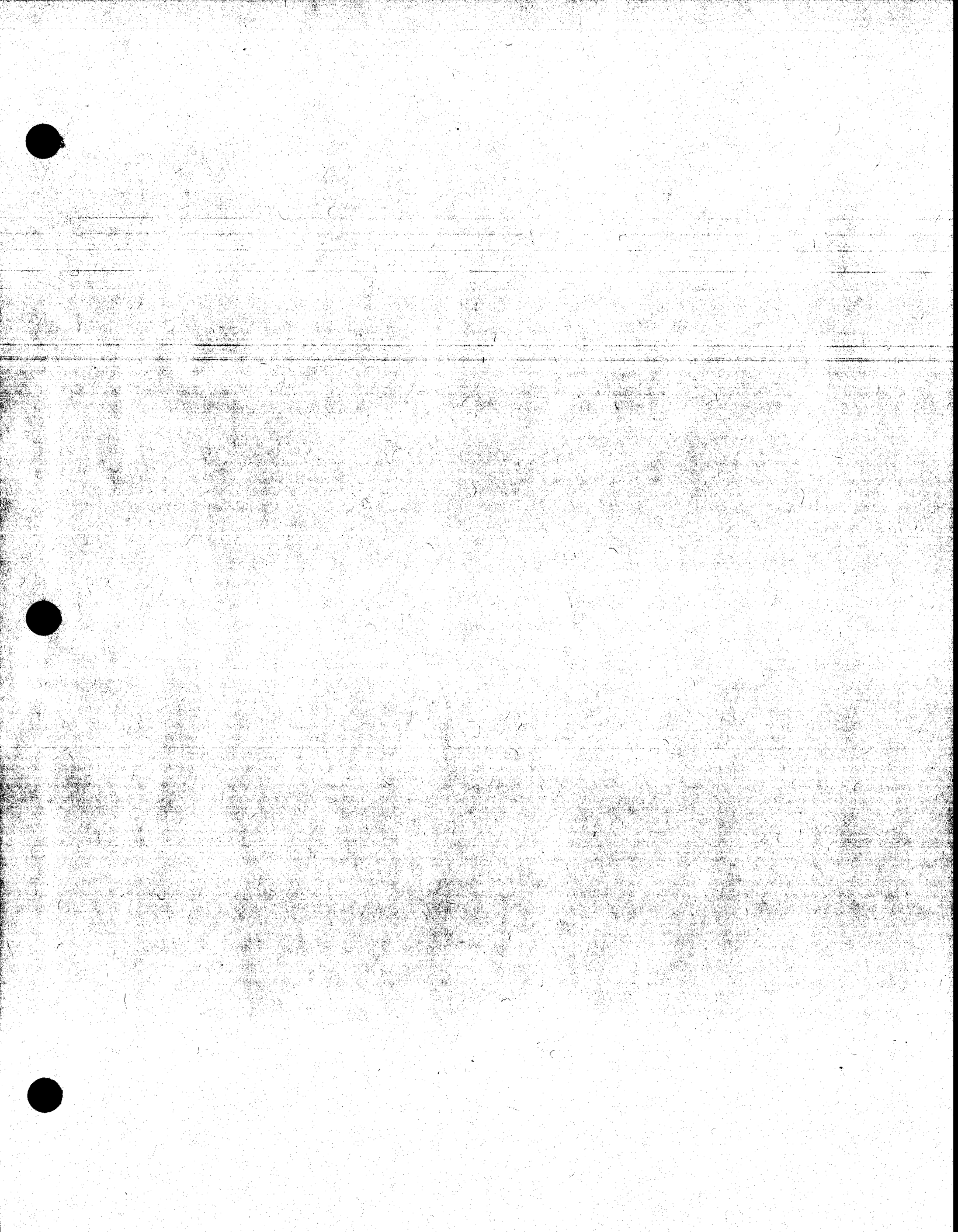
Please contact me at (602) 256-6100, if you have any questions or concerns.

Regards,



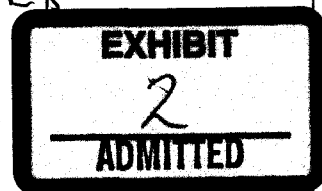
Jason D. Gellman

JDG/da  
cc: Marcus Jerden  
Encl.





Ex. 2



BEFORE THE ARIZONA POWER PLANT AND  
TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION OF [name of applicant], IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES §§ 40-360, *et seq.*, FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE CONSTRUCTION OF [name of project], LOCATED [location of project] IN [name of county] COUNTY, ARIZONA.

) Arizona Corporation Commission  
)  
) Docket No. L-00000[docket number]  
)  
) Case No. [case number]  
)  
)  
)

[Draft]  
**PROCEDURAL ORDER**

An application for a Certificate of Environmental Compatibility was filed in the above captioned matter with docket control of the Arizona Corporation Commission ("Commission") on [date of filing]. A copy of the application was transmitted to John Foreman, designee of the Attorney General of Arizona, Terry Goddard, as Chairman ("Chairman") and Presiding Officer of the Arizona Power Plant and Transmission Line Siting Committee ("Line Siting Committee"). A.R.S. §§ 40-360.01(B)(1) and 40-360.03. As authorized by A.R.S. §§ 40-360.01(C) and (D), 40-360.04 and A.A.C. R14-3-201(E), the Chairman issues the following procedural order,

IT IS ORDERED:

1. The Applicant and all other potential parties ("persons" within the meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)) shall advise the Chairman in writing on or before the time of the pre-hearing conference scheduled below if they disagree that the time limit for decision on the application by the Line Siting Committee set by A.R.S. § 40.360.04(D) is [date approximately 180 days after filing].
2. The Applicant shall arrange for the publication and posting of notice of the evidentiary hearing as agreed to at a pre-application hearing involving the Applicant and all known potential intervenors, in a form approved by the Chairman and circulated for approval as to form to all known potential interested parties. In addition, the Applicant shall submit a copy of the notice and present testimony describing the publication and posting of the notice at the evidentiary hearing.
3. The Applicant shall make arrangements for the evidentiary hearing to be held at [location of the evidentiary hearing], Arizona, beginning at 9:30 a.m. on [beginning date of hearing], and continuing on [continuing date(s) of the

1 evidentiary hearing] at 9:30 a.m. In addition, the Applicant shall make  
2 arrangements for a public comment session to be held at the same venue  
3 starting at 6:00 p.m. on [date of public comment session]. The Applicant shall  
4 make arrangements for further regular sessions on [potential future dates of the  
5 evidentiary hearing], and, if needed, additional public comment sessions on  
6 dates and at times to be determined later.

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4. The Applicant shall contact Michael Kearns, Chief Finance Officer of the Commission (602-542-3931) and advise him of the Applicant's position concerning reimbursement of the Line Siting Fund should the expenses of the hearings exceed the application fee and to discuss financial arrangements regarding hotel reservations and other expenses of the Line Siting Committee Members. A.R.S. § 40-360.10. The Applicant shall advise the Chairman of the results of these discussions so the necessary information may be communicated to the Line Siting Committee Members.
  5. The Applicant and all other potential parties ("persons" within the meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)) shall meet and confer on or before the beginning of the evidentiary hearing to determine whether any of the intervening parties have similar interests in the application process that will allow them jointly to present testimony on direct or cross-examination of witnesses or jointly to offer exhibits into evidence. The Applicant shall, and any other potential party may, report to the Chairman the results of the attempts of the parties to resolve the issues and to determine if common interests exist that will allow parties to jointly present evidence and argument or to avoid repetition of testimony and argument at the hearing.
  6. The parties and any other potential parties ("persons" within the meaning of A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)) shall not communicate with any member of the Line Siting Committee about any procedural matters or any factual issues or legal issues relating to the Application while the Application is pending before the Line Siting Committee. The only exception is the parties may communicate with the Chairman during the time the Application is pending about procedural matters relating to the preparation of the Application for hearing, the hearing on the Application and the decision on the Application by the Line Siting Committee. Communication of the parties with the Chairman about any procedural matters during the time an Application is pending shall be in writing with a copy of the writing to all parties or known potential parties ("persons" within the meaning of A.R.S. § 40-360(8) who have expressed an intention to intervene or request to intervene pursuant to A.R.S. § 40-360.05(A)), or shall be on the record at a pre-application hearing, at a procedural hearing or at the hearing on the application. Any party who initiates any written communication sent to the Chairman shall file with docket control of the Commission a copy of the communication including its distribution list within 10 days of sending the communication.

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7. Whenever an agenda is filed pursuant to A.R.S. § 38-431.02, all parties shall submit at least forty-eight hours before the hearing or meeting described in the agenda any objections, additions or corrections to the agenda in order to bring the agenda into compliance with A.R.S. § 38-431.02 in writing to the Chairman, serve a copy upon all other parties and file a copy with docket control of the Commission.
8. In addition, all parties shall meet and confer as needed before, during and after the hearing to attempt to resolve any disputes amongst the parties. The parties also shall keep all other parties advised of their positions and intentions with regard to the presentation of evidence, witnesses and the application process in general to avoid delay, the presentation of repetitive evidence and any unfair advantage from surprise.
9. All parties shall prepare brief summaries of the expected direct testimony of each witness they will call. In lieu of a testimonial summary, a party may pre-file and exchange all or substantially all of the direct testimony of any witness. Testimonial summaries and pre-filed testimony should be filed no later than the last pre-hearing conference or three business days before the witness is to testify, whichever is later. Except for good cause, no witness will be allowed to testify on direct examination concerning issues not reasonably identified in the pre-filed testimony or testimonial summary.
10. All parties shall meet, confer and exchange all exhibits the party plans to offer in evidence before the hearing or before they are referred to in testimony or offered in evidence. The Applicant shall, and other parties may, provide one or more three ring binders for the Chairman and each member of the Line Siting Committee to hold exhibits at the beginning of the hearing and as needed during the hearing. Each party shall prepare a numbered list of the exhibits and a copy of all exhibits suitable for placement in the binders that have been exchanged with the other parties that each party expects to offer in evidence at the hearing for the Chairman and each Line Siting Committee member. The exhibits shall be provided at the beginning of the hearing and during the hearing before reference to the exhibit is made in the hearing. Except for good cause, no exhibit that was not exchanged with the other parties shall be considered at the hearing. Any exhibit to which reference is made during any hearing that is not offered or admitted into evidence shall be provided to the court reporter at the evidentiary hearing for inclusion in the record unless it is withdrawn and the Chairman determines its filing is not necessary to an understanding of the actions of the Committee.
11. All exhibits shall be consecutively numbered with the Applicant's exhibits denominated: A-1, A-2, etc. Each intervening party will be assigned by the Chairman a letter or letters of the alphabet as a preface with which to

consecutively number its exhibits. For example, the Commission Staff will number its exhibits: CC-1, CC-2, etc.

12. The Applicant may make an opening statement at the beginning of the hearing of no more than thirty minutes. Each other party may make an opening statement of no more than five minutes.
13. Public comment will be heard after the opening statements and at other times set by the Chairman during the hearing. See ¶ 3, above.
14. In the event the Chairman determines that a tour is appropriate, the Applicant shall arrange for transportation of any Committee Members who wish to attend a tour of the locations where facilities proposed in the application or similar facilities are located. The Applicant shall submit to the Chairman, for approval in advance of the hearing, a schedule and protocol agreed to by all parties for the tour. If all parties do not agree upon the schedule and protocol for the tour, the disagreements shall be submitted to the Chairman for resolution. The protocol shall identify the tour route, identify the location of any stops, and identify any witnesses who will accompany the tour. Counsel may ask brief explanatory questions of the identified witness or witnesses during the stops about the location, what can be seen from the location of the stop and the relevance of the location or view to the Application in the discretion of the Chairman. All witnesses who testify on the tour shall be sworn before their testimony. All questions and answers shall be before a court reporter. No testimony or discussion with or between Committee Members about the Application or matters relating to the Application will take place, except on the record before a court reporter at the designated stops. The protocol shall provide for access to any testimony presented at stops on a tour to members of the public. Members of the public who wish to attend the tour shall be encouraged to notify the parties or the appropriate staff of Arizona Corporation Commission in advance of their intention to attend.
15. Parties may present their witnesses in panels where appropriate. A party that intends to present witnesses in panels shall identify the members of any panel at the time it files its witness summaries.
16. The Applicant shall make arrangements for the preparation of expedited court reporter transcripts of all pre-application hearings, pre-hearing procedural hearings and the evidentiary hearing, so that the transcripts are available for public inspection within three working days after each hearing date, as required by A.R.S. § 38-431.01D and § 40-360.04C. In addition, the Applicant shall file a certification with Commission docket control that it has provided a copy of the transcripts to at least two public libraries identified in the certification that are in the vicinity of the application.

17. On or before the final pre-hearing procedural hearing set below, the Applicant shall, and the other parties may, file proposed findings of fact, proposed conclusions of law, the wording of any proposed Certificate of Environmental Compatibility and the wording of any proposed conditions to the Certificate.

18. If the beginning of closing arguments and the Line Siting Committee's deliberations are more than one week after the beginning of the hearing, the parties shall meet and confer after the hearing begins and before closing arguments concerning proposed findings of fact, proposed conclusions of law, a proposed Certificate of Environmental Compatibility and the wording of any proposed conditions to the Certificate. If the parties are able to agree upon part or all of the proposed findings of fact, proposed conclusions of law, proposed forms of a Certificate of Environmental Compatibility and proposed wording of conditions to the Certificate, all that is agreed upon should be reduced to writing and filed with Commission docket control. If the parties are not able to agree completely, the Applicant shall, and all other parties may, file proposed findings of fact, proposed conclusions of law, proposed wording of a Certificate of Environmental Compatibility and proposed wording of conditions to the Certificate on the day before the beginning of closing arguments and the Line Siting Committee's deliberations. If the Applicant or any other party proposes conditions based upon conditions used in prior cases, each proposed condition from a prior case shall contain the case number of the most recent prior Certificate of Environmental Compatibility using the language approved by the Commission.

19. All witness summaries, proposed findings of fact, proposed conclusions of law, proposed Certificates of Environmental Compatibility and proposed conditions of Certificates, shall be filed with Commission docket control pursuant to A.A.C. R14-3-204 and -205. If any documents that are filed are hand delivered during the hearing, eleven copies shall be submitted to the Chairman for distribution to the other Committee Members.

20. Within five business days after the hearing concludes and the Committee renders its decision, the parties shall meet and confer in person or electronically to determine if they can agree upon the final wording of a proposed Certificate of Environmental Compatibility. If the parties can agree upon the final wording of a proposed Certificate of Environmental Compatibility, Applicant shall file forthwith the agreed upon proposed Certificate of Environmental Compatibility. If the parties are not able to agree upon a proposed form of Certificate of Environmental Compatibility, the Applicant shall file, and the other parties may file, within ten days after the date of the decision of the Committee, those portions of the proposed Certificate of Environmental Compatibility upon which the parties agree. The Applicant also shall file, and any other party also may file, its understanding of any disputed portions of the proposed Certificate of Environmental Compatibility. All proposed forms of the Certificate of

1 Environmental Compatibility and any objections or proposed revisions shall be  
2 filed with docket control of the Commission and a copy shall be hand delivered to  
3 the office of the Chairman at 1275 W. Washington, Phoenix, Arizona. Objections  
4 or suggestions that are not timely filed shall be considered waived. The copy of  
5 the proposed Certificate of Environmental Compatibility filed by the Applicant and  
6 any proposed revisions filed by the parties served upon the Chairman shall  
7 include an electronic file containing the wording of the proposed language in a  
8 format compatible with Microsoft© Word word processing program.

9 21. The Applicant and all other potential parties ("persons" within the meaning of  
10 A.R.S. § 40-360(8) who intend to intervene or request to intervene pursuant to  
11 A.R.S. § 40-360.05(A)) shall meet with the Chairman for a final pre-hearing  
12 conference on [date of final pre-hearing conference], at [time of pre-hearing  
13 conference] at the offices of the Attorney General of Arizona at 1275 W.  
14 Washington, Phoenix, Arizona. Parties may appear by telephone with the prior  
15 permission of the Chairman. At the final pre-hearing conference, the Chairman  
16 will review with the parties:

- 17 a. The publication and posting of notices of the hearing;
- 18 b. The proposed agenda for the evidentiary hearing;
- 19 c. Any notices to intervene, applications to intervene, and applications to  
20 make a limited appearance;
- 21 d. The status of attempts to narrow the issues at the evidentiary hearing or to  
22 agree to language in the proposed findings of fact, proposed conclusions  
23 of law, proposed Certificates of Environmental Compatibility and proposed  
24 conditions to the Certificate;
- 25 e. The status of the filing and exchange of witness summaries or written  
26 testimony, proposed findings of fact, proposed conclusions of law,  
proposed Certificates of Environmental Compatibility and proposed  
conditions to the Certificate;
- f. The status of the exchange of exhibits amongst the parties;
- g. Any objections, motions, responses and legal memoranda that have been  
filed;
- h. Plans and preparations for the hearing, public comment session, and tour  
of the proposed site.

21 IT IS FURTHER ORDERED, the Chairman may amend or waive any portion of  
22 this Procedural Order by subsequent Procedural Order, by ruling at a pre-hearing  
23 conference or at a hearing.  
24  
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DATED:

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John Foreman  
Assistant Attorney General  
Chairman  
Arizona Power Plant and Transmission  
Line Siting Committee  
john.foreman@azag.gov

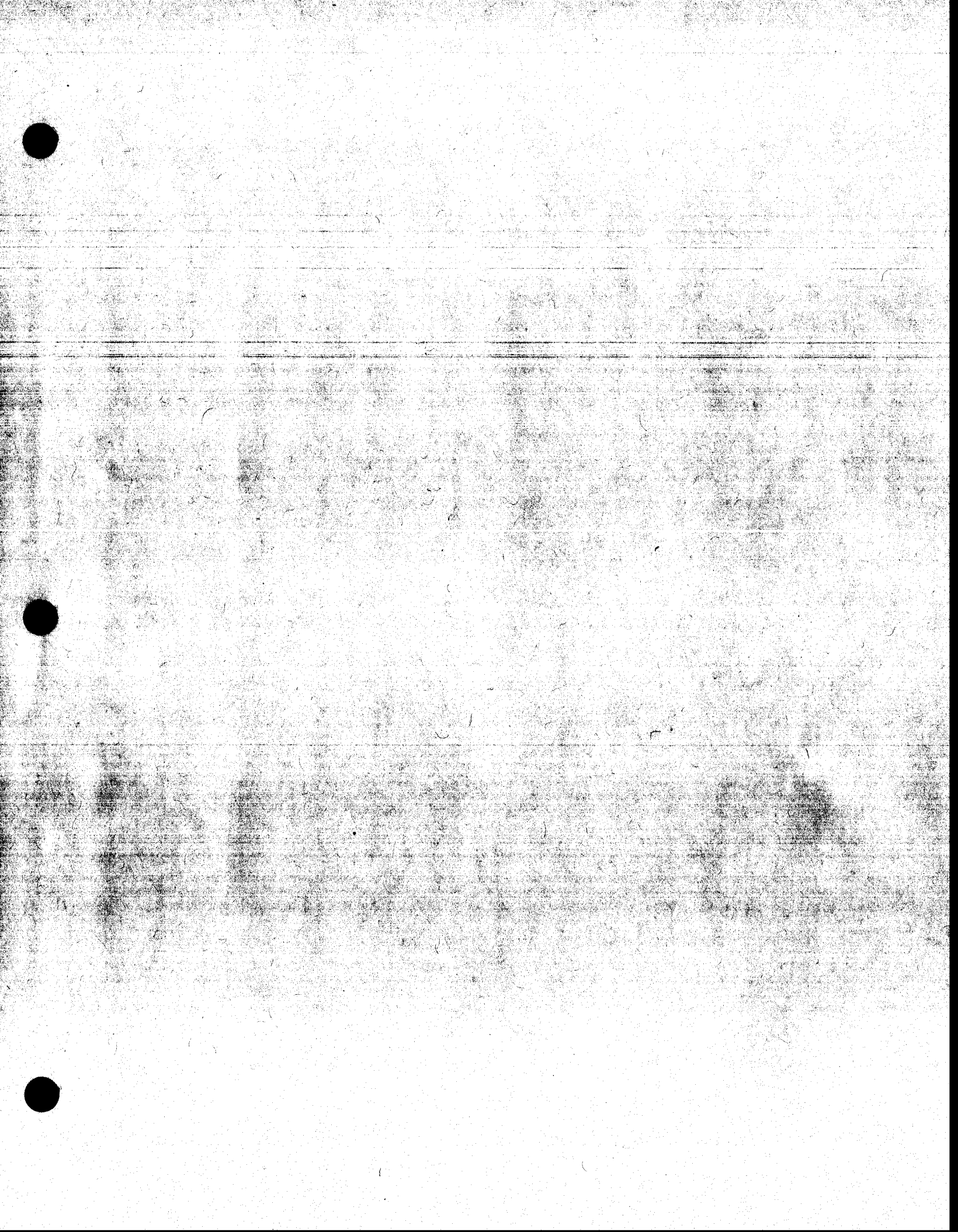
Pursuant to A.A.C. R14-3-204,  
The Original and 25 copies were  
filed [date] with:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

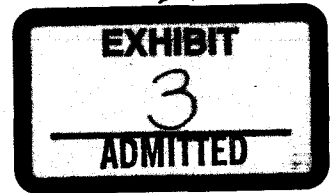
Copy of the above mailed this  
[date] to:

[parties and counsel]

#426841







### CONDITIONS

This Certificate is granted upon the following conditions:

1. The Applicant shall obtain all approvals and permits required by the United States, the State of Arizona, the County of [county], and any other governmental entities having jurisdiction necessary to construct the Project.
2. The Applicant shall comply with all existing applicable statutes, ordinances, master plans and regulations of the United States, the State of Arizona, the County of [county], and any other governmental entities having jurisdiction during the construction and operation of the transmission line [power plant].
3. If any archaeological, paleontological or historical site or object that is at least fifty years old is discovered on state, county or municipal land during the construction or operation of the transmission line [power plant], the Applicant or its representative in charge shall promptly report the discovery to the Director of the Arizona State Museum, and in consultation with the Director, shall immediately take all reasonable steps to secure and maintain the preservation of the discovery. A.R.S. § 41-844.
4. If human remains and/or funerary objects are encountered on private land during the course of any ground-disturbing activities relating to the construction or operation of the transmission line [power

plant], the Applicant shall cease work on the affected area of the Project and notify the Director of the Arizona State Museum. A.R.S. § 41-865.

5. The Applicant shall comply with the notice and salvage requirements of the Arizona Native Plant Law (A.R.S. §§ 3-901 et seq.) and shall, to the extent feasible, minimize the destruction of native plants during the construction and operation of the transmission line [power plant].
6. The Applicant shall not assign this Certificate or its interest in the Project authorized by this Certificate without prior approval of the Commission. Any assignment of this Certificate shall require the assignee to assume all responsibilities of the Applicant listed in this Certificate.
7. This authorization to construct this Project shall expire five years from the date the Certificate is approved by the Commission unless the transmission line [power plant] is capable of operation. However, prior to expiration, the Applicant or its assignees may request that the Commission extend this time limitation.
8. In the event that the Project requires an extension of the term of this Certificate prior to completion of construction, Applicant shall use reasonable means to notify all landowners and residents within one mile of the Project corridor [location], all persons who made public comment at this proceeding, and all parties to this proceeding of the request and the time and place of the hearing in which the Commission will consider the request for extension.

9. The Applicant shall make every reasonable effort to identify and correct, on a case-specific basis, all complaints of interference with radio or television signals from operation of the transmission lines and related facilities addressed in this Certificate. The Applicant shall maintain written records for a period of five years of all complaints of radio or television interference attributable to operation, together with the corrective action taken in response to each complaint. All complaints shall be recorded to include notations on the corrective action taken. Complaints not leading to a specific action or for which there was no resolution shall be noted and explained.
10. Within 120 days of the Commission decision granting this Certificate, Applicant will post signs in public rights-of-way giving notice of the Project corridor to the extent authorized by law. The Applicant shall place signs in prominent locations at reasonable intervals such that the public is notified along the full length of the transmission line until the transmission structures are constructed. To the extent practicable, within 45 days of securing easement or right-of-way for the Project, the Applicant shall erect and maintain signs providing public notice that the property is the site of a future transmission line. Such signage shall be no smaller than a normal roadway sign. The signs shall advise:
- (a) That the site has been approved for the construction of Project facilities;
  - (b) The expected date of completion of the Project facilities;
  - (c) A phone number for public information regarding the Project;
  - (d) The name of the Project;
  - (e) The name of the Applicant; and
  - (f) The website of the Project.

11. Applicant, or its assignee(s), shall design the transmission lines to incorporate reasonable measures to minimize impacts to raptors.
12. Applicant, or its assignee(s), shall use non-specular conductor and dulled surfaces for transmission line structures.
13. Before construction on this Project may commence, the Applicant shall file a construction mitigation and restoration plan ("Plan") with ACC Docket Control. Where practicable, the Plan shall specify the Applicant's plans for construction access and methods to minimize impacts to wildlife and to minimize vegetation disturbance outside of the Project right-of-way particularly in drainage channels and along stream banks, and shall re-vegetate, unless waived by the landowner, native areas of construction disturbance to its preconstruction state outside of the power-line right of way after construction has been completed. The Plan shall specify the Applicant's plans for coordination with the Arizona Game and Fish Department and the State Historic Preservation Office. The Applicant shall use existing roads for construction and access where practicable and the Plan shall specify the manner in which the Applicant makes use of existing roads.
14. With respect to the Project, Applicant shall participate in good faith in state and regional transmission study forums to coordinate transmission expansion plans related to the Project and to resolve transmission constraints in a timely manner.
15. The Applicant shall provide copies of this Certificate to [all affected governmental entities, e.g., affected cities and counties, the Arizona State Land Department, the State Historic Preservation Office, and the Arizona Game and Fish Department].

16. Prior to the date construction commences on this Project, the Applicant shall provide known homebuilders and developers within one mile of the center line of the Certificated route [power plant] the identity, location, and a pictorial depiction of the type of power line [plant] being constructed, accompanied by a written description, and encourage the developers and homebuilders to include this information in the developers' and homebuilders' homeowners' disclosure statements.

17. Before commencing construction of Project facilities located parallel to and within 100 feet of any existing natural gas or hazardous liquid pipeline, the Applicant shall:

(a) Perform the appropriate grounding and cathodic protection studies to show that the Project's location parallel to and within 100 feet of such pipeline results in no material adverse impacts to the pipeline or to public safety when both the pipeline and the Project are in operation. If material adverse impacts are noted in the studies, Applicant shall take appropriate steps to ensure that such material adverse impacts are mitigated. Applicant shall provide to Commission Staff reports of studies performed; and

(b) Perform a technical study simulating an outage of the Project that may be caused by the collocation of the Project parallel to and within 100 feet of the existing natural gas or hazardous liquid pipeline. This study should either: i) show that such outage does not result in customer outages; or ii) include operating plans to minimize any resulting customer outages. Applicant shall provide a copy of this study to Commission Staff.

18. Applicant will follow the latest Western Electricity Coordinating Council/North American Electric Reliability Corporation Planning standards as approved by the Federal Energy Regulatory Commission, and National Electrical Safety Code construction standards.
19. The Applicant shall submit a self-certification letter annually, identifying progress made with respect to each condition contained in the Certificate, including which conditions have been met. Each letter shall be submitted to the Docket Control of the Arizona Corporation Commission on December 1 beginning in 2009. Attached to each certification letter shall be documentation explaining how compliance with each condition was achieved. Copies of each letter along with the corresponding documentation shall be submitted to the Arizona Attorney General and Department of Commerce Energy Office. The requirement for the self-certification shall expire on the date the Project is placed into operation.
20. Within sixty (60) days of the Commission decision granting this Certificate, the Applicant shall make good faith efforts to commence discussions with private landowners, on whose property the Project corridor is located, to identify the specific location for the Project's right-of-way and placement of poles.
21. The Applicant shall expeditiously pursue reasonable efforts to work with private landowners on whose property the Project right-of-way will be located, to mitigate the impacts of the location, construction, and operation of the Project on private land.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Certificate incorporates the following findings of fact and conclusions of law:

1. The Project is in the public interest because it aids the state in meeting the need for an adequate, economical and reliable supply of electric power.
2. In balancing the need for the Project with its effect on the environment and ecology of the state, the conditions placed on the CEC by the Committee effectively minimize its impact on the environment and ecology of the state.
3. The conditions placed on the CEC by the Committee resolve matters concerning the need for the Project and its impact on the environment and ecology of the state raised during the course of proceedings, and as such, serve as the findings on the matters raised.
4. In light of these conditions, the balancing in the broad public interest results in favor of granting the CEC.